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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 SHANE WESLEY EDWARDS,

8 Plaintiff,

9 v.

10 BUREAU OF PRISONS,

11 Defendant.
12

Case No. C07-5033 RBL/KLS

ORDER TO SHOW CAUSE FOR
FAILURE TO STATE A CLAIM

13 This civil rights action has been referred to United States Magistrate Judge Karen L. Strombom
14 pursuant to 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Plaintiff has been granted leave to proceed *in*
15 *forma pauperis*. Before the Court for review is Plaintiff's proposed civil rights complaint in which Plaintiff
16 purports to sue the Bureau of Prisons pursuant to 42 U.S.C. § 1983. However, plaintiff has failed to allege
17 any conduct or request relief pursuant to § 1983. The Court finds that Plaintiff must show cause why his
18 complaint should not be dismissed for failure to state a claim.

19 **I. DISCUSSION**

20 Under 42 U.S.C. § 1983, claims can only be brought against people who personally participated in
21 causing the alleged deprivation of a right. Arnold v. IBM, 637 F.2d 1350, 1355 (9th Cir. 1981). Neither a
22 State nor its officials acting in their official capacities are "persons" under section 1983. Will v. Michigan
23 Dept. of State Police, 491 U.S. 58, 71 (1989). Additionally, state agencies, such as the "Bureau of
24 Prisons", are not "persons" within the meaning of 42 U.S.C. § 1983, and therefore they are not amenable
25 to suit under that statute. Maldonado v. Harris, 370 F.3d 945, 951 (9th Cir. 2004), *cert. denied*, 125 S. Ct.
26 1725 (S. Ct. 1725 (2005) (*citing Will v. Mich. Dep't of State Police*, 491 U.S. at 70).

27 In order to state a claim under 42 U.S.C. § 1983, a complaint must allege that (1) the conduct
28 complained of was committed by a person acting under color of state law and that (2) the conduct deprived

1 a person of a right, privilege, or immunity secured by the Constitution or laws of the United States. Parratt
2 v. Taylor, 451 U.S. 527, 535 (1981), *overruled on other grounds*, Daniels v. Williams, 474 U.S. 327
3 (1986). Section 1983 is the appropriate avenue to remedy an alleged wrong only if both of these elements
4 are present. Haygood v. Younger, 769 F.2d 1350, 1354 (9th Cir. 1985), cert. denied, 478 U.S. 1020
5 (1986).

6 Plaintiff must also allege facts showing how individually named defendants caused or personally
7 participated in causing the harm alleged in the complaint. Arnold v. IBM, 637 F.2d 1350, 1355 (9th Cir.
8 1981). A defendant cannot be held liable under 42 U.S.C. § 1983 solely on the basis of supervisory
9 responsibility or position. Monell v. New York City Dept. of Social Services, 436 U.S. 658, 694 n.58
10 (1978). A theory of *respondeat superior* is not sufficient to state a § 1983 claim. Padway v. Palches, 665
11 F.2d 965 (9th Cir. 1982).

12 Plaintiff names only the Bureau of Prisons and alleges generally that prison guards and inmates have
13 and continue to physically and mentally assault him. This is not sufficient to state a claim under 42 U.S.C.
14 § 1983. Plaintiff must set forth facts describing when and where and by whom he was deprived of a
15 constitutional right. Plaintiff's complaint must include factual allegations describing how each individual
16 caused or personally participated in causing him the harm that he claims he suffered.

17 Accordingly, it is **ORDERED**:

18 1. Plaintiff shall show cause why this complaint should not be dismissed. A response is due by
19 **March 30, 2007**. If Plaintiff fails to file a response or the response shows the Plaintiff cannot go forward
20 the court will enter a report and recommendation that the complaint be dismissed.

21 2. The Court Clerk is directed to send a copy of this Order to Plaintiff.

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23 DATED this 21st day of February, 2007.

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26 
27 Karen L. Strombom
28 United States Magistrate Judge